IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

TRC.No. 66 of 2001()
{TA.432/1989 of S.T.A.T.ADDL.BENCH, ERNAKULAM}
.....

PETITIONER:

STATE OF KERALA, REPRESENTED BY
DEPUTY COMMISSIONER (LAW),
COMMERCIAL TAXES, ERNAKULAM.

BY SPECIAL GOVERNMENT PLEADER FOR TAXES
SRI.V.V.ASHOKAN

RESPONDENT:

M/S.JYOTHI STEELS,
PROP: DEEPAK KUMAR PATNI,
T.D.ROAD, ERNAKULAM

BY ADV. SRI.K.SRIKUMAR
SRI.C.N.SREEKUMAR
SRI.K.MANOJ CHANDRAN
SRI.P.R.AJITHKUMAR

THIS TAX REVISION CASE HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

C.M.P.No.1094 of 2001
& T.R.C.NO.66 OF 2001

Dated this the 13th day of June, 2007.

JUDGMENT

H.L.DATTU, C.J.

C.M.P.No.1094 of 2001

The delay in filing the revision petition is condoned.

T.R.C.NO.66 OF 2001

Since the issue involved in this tax revision case lies in a narrow compass, though the matter was posted in the orders list, we consider that the matter is to be taken up for final hearing.

2. The revenue is before us, being aggrieved by the orders passed by the Sales Tax Appellate Tribunal in T.A.Nos.432/89 and 5/90 dated 24.5.2000 for the assessment year 1986-87.

3. The revenue has raised the following questions of law for our consideration and decision. They are as under:

> "(a) Were not the First Appellate Authority as well as the Tribunal in error in reducing the addition made by the assessing authority in the instant case? Were not the appellate authority as well as the Tribunal exceeded in their appellate jurisdiction in the instant case?

(b) Were not such exercise by these authorities against the principles settled in 32 STC 77?

(c) Is not the substantial reduction of addition made by the Tribunal in the instant case rendered the very process of best judgment assessment adopted in the case ineffective and redundant?"

4. Section 41 of the Kerala General Sales Tax Act empowers this court to entertain a revision petition filed against the orders passed by the Tribunal, only if the Tribunal has failed to consider a question of law or has erroneously decided a question of law.

5. Having gone through the questions of law raised by the Revenue, in our opinion, the same cannot be construed as questions of law at all. At the most, they could be questions of fact.

In that view of the matter, we decline to entertain this revision. Accordingly it is rejected. Ordered accordingly.

Sd/-
H.L.DATTU
CHIEF JUSTICE

Sd/-
K.T.SANKARAN
JUDGE

sk/

//true copy//

P.S. To Judge

H.L.DATTU, C.J.
& K.T.SANKARAN, J.

T.R.C.NO.66 OF 2001

JUDGMENT

13TH JUNE, 2007.